

Internal Revenue Service

Department of the Treasury

~~25 Times Square, New York, N.Y. 10036~~

P.O. Box 1480 Brooklyn, NY 11202

Date **FEB 28 1983**

Person to Contact: [REDACTED]

Contact Telephone Number: [REDACTED]

Refer Reply to: [REDACTED]

Gentlemen:

We have considered your application for recognition of exemption under section 501(c)(4) of the Internal Revenue Code.

The evidence presented disclosed that you were formed [REDACTED] under the laws of the State of [REDACTED]. Your purposes as stated are: "To promote the health, safety and welfare of the residents of the community known as [REDACTED] in lands situated in the Town of [REDACTED], County of [REDACTED] and State of [REDACTED]."

To own, acquire, build, operate and maintain land and facilities for swimming and other recreational, cultural and community use, including buildings, structures, improvements and personal property incidental thereto; and

To enforce any and all covenants, restrictions and agreements applicable to the residential parcels within the above community and the common properties and particularly the Declaration of Covenants, Restrictions, Easements, Charges and Liens which may hereinafter be made by [REDACTED]."

Your membership consists of the property owners of those lots located on the filed map of [REDACTED]. Your income is from membership dues. Your disbursements are for lawn service, repairs and maintenance, insurance, taxes and other miscellaneous expenses.

Section 501(c)(4) of the Internal Revenue Code provides for the exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-(2)(i) of the Income Tax Regulations states in part, "An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community."

Revenue Ruling 69-280 1969-1 C.B. 152, describes an organization that is incorporated as a non-profit membership corporation for the purpose of providing specified services for the home owners in a housing development. The services consisted of maintaining the exterior walls and roofs of the individual home units. If a person purchases a unit in the housing development he is required to become a member of the organization. The organization is supported entirely by members through their annual dues. It was held that the organization is operated primarily for the private benefit of members and any benefits to the community are not sufficient to meet the requirement of the regulation that the organization be operated primarily for the common good and general welfare of the people of the community. Accordingly, this organization was not granted exemption from Federal income tax as a social welfare organization under section 501(c)(4) of the Code.

Revenue Ruling 74-99, 1974-1 C.B. 131, states that a community within the meaning of section 501(c)(4) of the Code and regulations is not simply an aggregation of homeowners bound together in a structured unit formed as an integral part of a plan for the development of a real estate subdivision and the sale and purchase of homes therein. Although an exact delineation of the boundaries of a "community" contemplated by section 501(c)(4) is not possible, the term as used in that section has traditionally been constructed as having reference to a geographical unit bearing a reasonable recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof.

Revenue Ruling 84-17 1974-1 C.B. 130 describes an organization that is an association formed by the unit owners of condominium housing project and is operated to provide for the management maintenance and care of the common areas of the project. Its income is from membership assessments and its disbursements ownership involves ownership in common by all condominium unit owners of a great many so called common areas the maintenance and care of which necessarily constitutes the provision of private benefits for the unit owners. Since the organizations activities are for the private benefit of its members, it cannot be said to be operated exclusively for the promotion of social welfare. Accordingly, it does not qualify for exemption from Federal income tax under section 501(c)(4) of the Code.

Based on the evidence presented, we hold you to be primarily operating for the private interests of the homeowners you represent. Your primary activities are maintaining and operating common areas, and recreational facilities for the homeowners. The general public does not have any access to the roadways, sidewalks that your organization owns or maintains.

It is held that your organization fails to meet the requirements in section 501(c)(4) of the Code. Consequently it is held that your organization does not qualify for exemption under section 501(c)(4) of the Code.

However, you may qualify as a Homeowners Association as described in section 528 of the Code.

Section 528(c) of the Code defines "homeowners association as an organization which is a condominium management association or a residential real estate management if - (a) such organization is organized and operated to provide for the acquisition, construction, management, maintenance, and care of association property, (b) 60 percent or more of its gross income, consists solely of amounts received as membership dues or assessments, (c) 90 percent or more of the expenditures of the organization are expenditure for the acquisition, construction, management, maintenance and care of association property, (d) no part of the net earnings inures to the benefit of any private shareholder or individual, and (e) such organization elects to have this section apply for the taxable year.

If your organization elects at such time and in such manner as the regulations prescribe to have section 528 apply for the taxable year, you must file Form 1120 - H.

If you do not agree with the determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completions.

Sincerely yours,

[REDACTED]

District Director

cc:

[REDACTED]

Enclosure: Pub. 892